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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,236	07/12/2001	Edward O. Clapper	INTL-0628-US (P12052)	2118
7590	11/10/2005			
Timothy N. Trop TROP, PRUNER & HU, P.C. 8554 KATY FWY, STE. 100 HOUSTON, TX 77024-1805			EXAMINER LEE, BENJAMIN C	
			ART UNIT 2632	PAPER NUMBER

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/904,236

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Benjamin C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9,11,13-19 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 13-19 is/are allowed.
- 6) ☒ Claim(s) 1,3-9,21-29,31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on 3/4/04 has been entered.

### Claim Status

2. Claims 1, 3-9, 11, 13-19 and 21-32 are currently pending.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5-6, 24, 26, 29 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1) Claim 5, line 2, "the tags" lacks antecedence.

2) Claim 6, line 1, "said sensor" lacks antecedence.

3) Claim 24, line 2, "said wireless sensor" lacks antecedence.

4) Claim 26, line 1, "said wireless sensor" lacks antecedence.

5) Claim 29, line 2, "said sensor" lacks antecedence.

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6) Claim 32, line 3 “position” should have read --location-- for proper antecedence from claim 11.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 21-29 are rejected under 35 U.S.C. 102(b) as being anticipated by O’Hagan et al. (US pat. 5,821,513).

1) O’Hagan et al. discloses:

a) claim 21: the claimed a system (10) comprising: a processor (32 of Fig. 5); and a storage coupled to said processor to determine the system’s current position in a retail facility based on information from wireless tags in said facility (Fig. 5; col. 10, lines 5-22 and col. 8, lines 47-67), to wirelessly link a plurality of systems (system 10 and system 58 in Fig. 1) within a retail facility through a local area network (88 in Fig. 1) based in the retail facility and to enable the systems (10, 58) to exchange information between themselves through said network (Fig. 1);

b) claim 22: further including a wireless transceiver (transceivers associated with access points 54, 56 of Fig. 1 and col. 4, lines 32-33; 118 of Fig. 5; transponder and interrogator/reader transceivers of col. 10, lines 5-22);

c) claim 23: further including an interface (access points 54, 56 of Fig. 1 and col. 4, lines 33) to enable network communications;

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d) claim 24: wherein each of said wireless tags provides an identifying code to said wireless sensor (col. 10, lines 5-22 and col. 8, lines 64-67);

e) claim 25: including a plurality of wireless sensors associated with the user (164-165 of Fig. 5 and col. 8, lines 47-67);

f) claim 26: including a shopping cart (18) , said wireless sensor and said processor mounted on said shopping cart (Figs. 1-2 and 5);

g) claim 27: including a wireless interface (access points 54, 56 of Fig. 1 and col. 4, lines 33) to communicate with a network (88, 78 of Fig. 1);

h) claim 28: wherein said processor forwards information from said tags through said wireless interface to said network (Figs. 1 and 5 in the context of cart location using locator tags according to col. 8, lines 64-67 and col. 10, lines 5-22);

i) claim 29: including a server (58) coupled to said network, said server receiving position identifying information from said sensor and providing advertising information to said processor (col. 10, lines 5-22).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hagan et al. in view of Alewine et al. (US pat. 6,150,961).

1) O'Hagan et al. discloses :

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a) claim 1: wirelessly linking a plurality of shopping carts (18) within a retail facility (col. 1 ,lines 18-20) through a local area network (Fig. 1) based in the retail facility; and enabling the carts to communicate through said network (Fig. 1 and corresponding disclosure);

b) claim 3: providing a processor-based device (10 comprising 12 comprising processor 32 in Fig. 5) on a shopping cart (18) to retail customers that wirelessly communicates with a server (58 in Fig. 1 and col. 9, line 50);

c) claim 4: pushing information to the cart depending on the cart's current location (col. 4, lines 54-60);

d) claim 5: providing a plurality of sensors associated with the user, each sensor to sense the tags to determine the position of the user in the facility (164-165 of Fig. 5; col. 10, lines 5-22 and col. 8, lines 47-67 in the context of locator transponders);

e) claim 6: providing said sensor on a shopping cart (Fig. 1);

f) claim 7: receiving identifying information from each of a plurality of wireless tags (locator transponders of col. 10, lines 5-22 and col. 8, lines 64-67);

g) claim 8: providing said information from said wireless tags to a server (col. 4, lines 29-61 and col. 9, lines 49-51);

h) claim 9: using said information from said wireless tags to determine the current location of the user (col. 8, lines 64-67);

**EXCEPT:**

i) the claimed enabling the carts to communicate with one another through said network.

While O'Hagan et al. discloses allowing the carts to communicate with the HOST server 38 through a wireless LAN 58 (Fig. 1), it has been known to enabling mobile units communicating with a base station server to communicate with one another through a formed wireless LAN among the mobile units in order to allow communication between any mobile unit not within range of the base station server and the base station server, such as taught by Alewine et al. (19-24 and Fig. 5). In view of the teachings by O'Hagan et al. and Alewine et al., it would have been obvious to one of ordinary skill in the art at the time of the claimed invention form a wireless LAN among the shopping carts to enable the carts to communicate with one another through said wireless LAN in O'Hagan et al. as taught by Alewine et al. to ensure communication between any cart and the host server, or alternatively to allow communication between any cart and the host server with a minimized number of distributed wireless transceivers (54, 56 in Fig. 1 of O'Hagan et al.)

9. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hagan et al. in view of Alewine et al. and Komatsu (US pat. 5,646,616).

1) Regarding claim 31, O'Hagan et al. and Alewine et al. render obvious all of the claimed subject matter as in claim 1, except:

--the claimed providing a route from the user's current position to a requested destination within said facility.

In the same art of shopping terminal systems, Komatsu teaches a shopping cart terminal for determining user location and providing a route from the user's current position to a requested destination (designated by inputting a merchandise item to be located/picked-up (within the retail

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facility, using a computer that comprising a control section (70) and IC cart reader/writer (90) wherein said reader/writer reads the picking request from a user, wherein said picking request including a type and amount of articles to be picked up (col. 2, lines 47-60), the computer associated with a display unit (20) and determines the request and display the picking information in response to the current position of the picking cart (col. 2, lines 58-60), the picking information includes the aisles number, quantity, units, the position of a shelf (aisles location) and a cart advancement route (future path of travel) (col. 2, lines 61-67).

In view of the teachings by O'Hagan et al., Alewine et al. and Komatsu, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include a known route provision feature as taught by Komatsu in a shopping cart system of O'Hagan et al. and Alewine et al. in order to provide route information for a user/customer to find particular items in a retail facility to thereby provide convenience for the user/customer by saving time and effort and thus help retain/attract customers/users to improve business for the retail facility.

***Allowable Subject Matter***

10. Claims 11 and 13-19 are allowed.
11. Claim 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) US pat. 5,621,798



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--A similar mobile wireless LAN system.

2) US pub. 2002/0170961

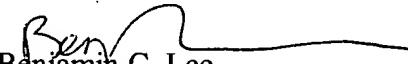
--A similar shopping assistance method/system using shopping cart terminal.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin C. Lee whose telephone number is (571) 272-2963.

The examiner can normally be reached on Mon -Fri 11:00Am-7:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin C. Lee  
Primary Examiner  
Art Unit 2632

B.L.